

§ 93.119 Criteria and procedures: Interim emissions in areas without motor vehicle emissions budgets.

(a) The transportation plan, TIP, and project not from a conforming transportation plan and TIP must satisfy the interim emissions test(s) as described in § 93.109(c) through (l). This criterion applies to the net effect of the action (transportation plan, TIP, or project not from a conforming plan and TIP) on motor vehicle emissions from the entire transportation system.

(b) *Ozone areas.* The requirements of this paragraph apply to all 1-hour ozone and 8-hour ozone NAAQS areas, except for certain requirements as indicated. This criterion may be met:

(1) In moderate and above ozone nonattainment areas that are subject to the reasonable further progress requirements of CAA section 182(b)(1) if a regional emissions analysis that satisfies the requirements of § 93.122 and paragraphs (g) through (j) of this section demonstrates that for each analysis year and for each of the pollutants described in paragraph (f) of this section:

(i) The emissions predicted in the “Action” scenario are less than the emissions predicted in the “Baseline” scenario, and this can be reasonably expected to be true in the periods between the analysis years; and

(ii) The emissions predicted in the “Action” scenario are lower than:

(A) 1990 emissions by any nonzero amount, in areas for the 1-hour ozone NAAQS as described in § 93.109(c); or

(B) 2002 emissions by any nonzero amount, in areas for the 8-hour ozone NAAQS as described in § 93.109(d) and (e).

(2) In marginal and below ozone nonattainment areas and other ozone nonattainment areas that are not subject to the reasonable further progress requirements of CAA section 182(b)(1) if a regional emissions analysis that satisfies the requirements of § 93.122 and paragraphs (g) through (j) of this section demonstrates that for each analysis year and for each of the pollutants described in paragraph (f) of this section:

(i) The emissions predicted in the “Action” scenario are not greater than the emissions predicted in the “Base-

line” scenario, and this can be reasonably expected to be true in the periods between the analysis years; or

(ii) The emissions predicted in the “Action” scenario are not greater than:

(A) 1990 emissions, in areas for the 1-hour ozone NAAQS as described in § 93.109(c); or

(B) 2002 emissions, in areas for the 8-hour ozone NAAQS as described in § 93.109(d) and (e).

(c) *CO areas.* This criterion may be met:

(1) In moderate areas with design value greater than 12.7 ppm and serious CO nonattainment areas that are subject to CAA section 187(a)(7) if a regional emissions analysis that satisfies the requirements of § 93.122 and paragraphs (g) through (j) of this section demonstrates that for each analysis year and for each of the pollutants described in paragraph (f) of this section:

(i) The emissions predicted in the “Action” scenario are less than the emissions predicted in the “Baseline” scenario, and this can be reasonably expected to be true in the periods between the analysis years; and

(ii) The emissions predicted in the “Action” scenario are lower than 1990 emissions by any nonzero amount.

(2) In moderate areas with design value less than 12.7 ppm and not classified CO nonattainment areas if a regional emissions analysis that satisfies the requirements of § 93.122 and paragraphs (g) through (j) of this section demonstrates that for each analysis year and for each of the pollutants described in paragraph (f) of this section:

(i) The emissions predicted in the “Action” scenario are not greater than the emissions predicted in the “Baseline” scenario, and this can be reasonably expected to be true in the periods between the analysis years; or

(ii) The emissions predicted in the “Action” scenario are not greater than 1990 emissions.

(d) *PM₁₀ and NO₂ areas.* This criterion may be met in PM₁₀ and NO₂ nonattainment areas if a regional emissions analysis that satisfies the requirements of § 93.122 and paragraphs (g) through (j) of this section demonstrates that for each analysis year and for each of the pollutants described

in paragraph (f) of this section, one of the following requirements is met:

(1) The emissions predicted in the "Action" scenario are not greater than the emissions predicted in the "Baseline" scenario, and this can be reasonably expected to be true in the periods between the analysis years; or

(2) The emissions predicted in the "Action" scenario are not greater than baseline emissions. Baseline emissions are those estimated to have occurred during calendar year 1990, unless the conformity implementation plan revision required by § 51.390 of this chapter defines the baseline emissions for a PM₁₀ area to be those occurring in a different calendar year for which a baseline emissions inventory was developed for the purpose of developing a control strategy implementation plan.

(e) *PM_{2.5} areas.* This criterion may be met in PM_{2.5} nonattainment areas if a regional emissions analysis that satisfies the requirements of § 93.122 and paragraphs (g) through (j) of this section demonstrates that for each analysis year and for each of the pollutants described in paragraph (f) of this section, one of the following requirements is met:

(1) The emissions predicted in the "Action" scenario are not greater than the emissions predicted in the "Baseline" scenario, and this can be reasonably expected to be true in the periods between the analysis years; or

(2) The emissions predicted in the "Action" scenario are not greater than 2002 emissions.

(f) *Pollutants.* The regional emissions analysis must be performed for the following pollutants:

(1) VOC in ozone areas;

(2) NO_x in ozone areas, unless the EPA Administrator determines that additional reductions of NO_x would not contribute to attainment;

(3) CO in CO areas;

(4) PM₁₀ in PM₁₀ areas;

(5) VOC and/or NO_x in PM₁₀ areas if the EPA Regional Administrator or the director of the State air agency has made a finding that one or both of such precursor emissions from within the area are a significant contributor to the PM₁₀ nonattainment problem and has so notified the MPO and DOT;

(6) NO_x in NO₂ areas;

(7) PM_{2.5} in PM_{2.5} areas;

(8) Reentrained road dust in PM_{2.5} areas only if the EPA Regional Administrator or the director of the State air agency has made a finding that emissions from reentrained road dust within the area are a significant contributor to the PM_{2.5} nonattainment problem and has so notified the MPO and DOT;

(9) NO_x in PM_{2.5} areas, unless the EPA Regional Administrator and the director of the State air agency have made a finding that emissions of NO_x from within the area are not a significant contributor to the PM_{2.5} nonattainment problem and has so notified the MPO and DOT; and

(10) VOC, SO_x and/or ammonia in PM_{2.5} areas if the EPA Regional Administrator or the director of the State air agency has made a finding that any of such precursor emissions from within the area are a significant contributor to the PM_{2.5} nonattainment problem and has so notified the MPO and DOT.

(g) *Analysis years.* (1) The regional emissions analysis must be performed for analysis years that are no more than ten years apart. The first analysis year must be no more than five years beyond the year in which the conformity determination is being made. The last year of the transportation plan's forecast period must also be an analysis year.

(2) For areas using paragraphs (b)(2)(i), (c)(2)(i), (d)(1), and (e)(1) of this section, a regional emissions analysis that satisfies the requirements of § 93.122 and paragraphs (g) through (j) of this section would not be required for analysis years in which the transportation projects and planning assumptions in the "Action" and "Baseline" scenarios are exactly the same. In such a case, paragraph (a) of this section can be satisfied by documenting that the transportation projects and planning assumptions in both scenarios are exactly the same, and consequently, the emissions predicted in the "Action" scenario are not greater than the emissions predicted in the "Baseline" scenario for such analysis years.

(h) *“Baseline” scenario.* The regional emissions analysis required by paragraphs (b) through (e) of this section must estimate the emissions that would result from the “Baseline” scenario in each analysis year. The “Baseline” scenario must be defined for each of the analysis years. The “Baseline” scenario is the future transportation system that will result from current programs, including the following (except that exempt projects listed in § 93.126 and projects exempt from regional emissions analysis as listed in § 93.127 need not be explicitly considered):

(1) All in-place regionally significant highway and transit facilities, services and activities;

(2) All ongoing travel demand management or transportation system management activities; and

(3) Completion of all regionally significant projects, regardless of funding source, which are currently under construction or are undergoing right-of-way acquisition (except for hardship acquisition and protective buying); come from the first year of the previously conforming transportation plan and/or TIP; or have completed the NEPA process.

(i) *“Action” scenario.* The regional emissions analysis required by paragraphs (b) and (c) of this section must estimate the emissions that would result from the “Action” scenario in each analysis year. The “Action” scenario must be defined for each of the analysis years. The “Action” scenario is the transportation system that would result from the implementation of the proposed action (transportation plan, TIP, or project not from a conforming transportation plan and TIP) and all other expected regionally significant projects in the nonattainment area. The “Action” scenario must include the following (except that exempt projects listed in § 93.126 and projects exempt from regional emissions analysis as listed in § 93.127 need not be explicitly considered):

(1) All facilities, services, and activities in the “Baseline” scenario;

(2) Completion of all TCMs and regionally significant projects (including facilities, services, and activities) specifically identified in the proposed

transportation plan which will be operational or in effect in the analysis year, except that regulatory TCMs may not be assumed to begin at a future time unless the regulation is already adopted by the enforcing jurisdiction or the TCM is identified in the applicable implementation plan;

(3) All travel demand management programs and transportation system management activities known to the MPO, but not included in the applicable implementation plan or utilizing any Federal funding or approval, which have been fully adopted and/or funded by the enforcing jurisdiction or sponsoring agency since the last conformity determination;

(4) The incremental effects of any travel demand management programs and transportation system management activities known to the MPO, but not included in the applicable implementation plan or utilizing any Federal funding or approval, which were adopted and/or funded prior to the date of the last conformity determination, but which have been modified since then to be more stringent or effective;

(5) Completion of all expected regionally significant highway and transit projects which are not from a conforming transportation plan and TIP; and

(6) Completion of all expected regionally significant non-FHWA/FTA highway and transit projects that have clear funding sources and commitments leading toward their implementation and completion by the analysis year.

(j) *Projects not from a conforming transportation plan and TIP.* For the regional emissions analysis required by paragraphs (b) through (e) of this section, if the project which is not from a conforming transportation plan and TIP is a modification of a project currently in the plan or TIP, the ‘Baseline’ scenario must include the project with its original design concept and scope, and the ‘Action’ scenario must include the project with its new design concept and scope.

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